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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 171222999-8208-01]

RIN 0648-BH46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Abbreviated Framework Amendment 1

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Abbreviated Framework Amendment 1 (Abbreviated Framework 1) to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region, as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would reduce the commercial and recreational annual catch limits (ACLs) for red grouper in the exclusive economic zone (EEZ) of the South Atlantic. The purpose of the proposed rule is to address the overfishing of red grouper.

DATES: Written comments must be received by *[insert date 30 calendar days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2017-0162" by any of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0162*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Frank Helies, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly

accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Abbreviated Framework 1, which includes an environmental assessment, Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from www.regulations.gov or the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2017/red_grouper_framework/index.html.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS SERO, telephone: 727-824-5305, email: Frank.Helies@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region is managed under the FMP and includes red grouper, along with other snapper-grouper species. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights described in this proposed rule are in round weight.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from

federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

In 2010, NMFS determined that the South Atlantic red grouper stock was undergoing overfishing and was overfished following a stock assessment (Southeast Data, Assessment, and Review (SEDAR) 19). Through Amendment 24 to the FMP, the Council and NMFS implemented a 10-year rebuilding plan in 2011, with a projected end date of 2020, which was expected to end overfishing and rebuild the stock (77 FR 34254; June 11, 2012).

In February 2017, a standard stock assessment for red grouper was completed (SEDAR 53). Based on the results of SEDAR 53, NMFS notified the Council on September 27, 2017, that the red grouper stock is overfished, is undergoing overfishing, and is not making adequate rebuilding progress according to its rebuilding plan. Based on projections from SEDAR 53, the Council's Scientific and Statistical Committee (SSC) provided an acceptable biological catch (ABC) recommendation to the Council. The Council accepted that ABC recommendation, and then revised the red grouper ACLs in Abbreviated Framework 1.

In addition to this current rulemaking for Abbreviated Framework 1, the Council and NMFS are developing a new red

grouper rebuilding plan through Amendment 42 to the FMP (Amendment 42). The Council is also considering changes to red grouper management measures through Regulatory Amendments 26 and 27 to the Snapper-Grouper FMP. NMFS and the Council intend to implement Abbreviated Framework 1 to reduce the sector ACLs below the overfishing limit to address overfishing while Amendment 42, Regulatory Amendment 26, and Regulatory Amendment 27 are developed and implemented.

Management Measures Contained in This Proposed Rule

This proposed rule would revise the ACLs for South Atlantic red grouper for both the commercial and recreational sectors. The current total ACL (commercial and recreational ACL combined) is 780,000 lb (353,802 kg). The total ACL is divided into a commercial sector ACL of 343,200 lb (155,673 kg) and a recreational sector ACL of 436,800 lb (198,129 kg). The ACLs are based on the sector allocation ratio developed by the Council for red grouper (44 percent commercial and 56 percent recreational) established in Amendment 24 (77 FR 34254; June 11, 2012).

Consistent with the results of SEDAR 53 and the ABC recommendation from the SSC accepted by the Council, this proposed rule would reduce the total, commercial, and recreational ACLs. The commercial ACL would be set at

61,160 lb (27,742 kg), for 2018, 66,000 lb (29,937 kg), for 2019, and 71,280 lb (32,332 kg), for 2020 and subsequent fishing years. The recreational ACL would be set at 77,840 lb (35,308 kg), for 2018, 84,000 lb (38,102 kg), for 2019, and 90,720 lb (41,150 kg), for 2020 and subsequent fishing years. The total ACL would be set at 139,000 lb (63,049 kg) for 2018, 150,000 lb (68,039 kg) for 2019, and 162,000 lb (73,482 kg) for 2020 and subsequent fishing years. The total ACLs are equal to the SSC's ABC recommendation, and this proposed rule does not change the sector allocations.

As a result of the proposed ACLs being set lower than the overfishing limit (at the yield at 75 percent F_{MSY}), the Council expects overfishing of red grouper may end immediately upon implementation of the rule. For the last several years, commercial landings have averaged 50,204 lb (22,772 kg), which is less than the commercial ACL proposed in Abbreviated Framework 1. The recreational landings have been highly variable since 2012, and using the average recreational landings from 2014-2016, the proposed lower ACL for the recreational sector is predicted to result in a shortened recreational fishing season, with closure dates ranging from July 26 to August 19. If the red grouper stock experiences a year of high recruitment, the proposed lower

ACLs would constrain future recreational and commercial harvest and prevent overfishing.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Abbreviated Framework 1, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under EO 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the statutory

basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

This proposed rule would reduce the total, commercial, and recreational ACLs for South Atlantic red grouper. Because the RFA does not apply to recreational anglers, only the effects on commercial vessels were analyzed; any impact to the profitability or competitiveness of for-hire fishing businesses would be the result of changes in for-hire angler demand and would, therefore, be indirect in nature. The RFA does not consider indirect impacts.

This proposed rule would directly affect only federally permitted commercial snapper-grouper fishermen fishing for red grouper in the South Atlantic. As described in Abbreviated Framework 1, the revised commercial ACLs would be 61,160 lb (27,742 kg) for 2018, 66,000 lb (29,937 kg) for 2019, and 71,280 lb (32,332 kg) for 2020 and beyond. Commercial landings of South Atlantic red grouper have been decreasing, particular in the last five years (2012-2016), with projected 2017 landings of approximately 35,000 lb (15,875 kg). If this trend

continues or levels off, the likelihood of reaching the proposed commercial ACL in 2018 and beyond would be very low. In the unlikely event that commercial landings increase in 2018 and beyond as to reach the proposed commercial ACLs, the effects of the commercial ACL reduction would be relatively small because only approximately 2.7 percent of total commercial snapper-grouper vessel revenues have historically been derived from red grouper.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Overfishing,
Recreational, Red grouper, South Atlantic.

Dated: March 28, 2018.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory
Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part
622 is proposed to be amended as follows:

**PART 622-- FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND
SOUTH ATLANTIC**

1. The authority citation for part 622 continues to
read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 622.193, revise paragraph (d) to read as
follows:

**§ 622.193 Annual catch limits (ACLs), annual catch targets
(ACTs), and accountability measures (AMs).**

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(d) *Red grouper*—(1) *Commercial sector*. (i) If commercial landings for red grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL, specified in paragraph (d)(1)(iii) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red grouper is prohibited and harvest or possession of red grouper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(ii) If the commercial landings for red grouper, as estimated by the SRD, exceed the commercial ACL, specified in paragraph (d)(1)(iii) of this section, and the combined commercial and recreational ACL, specified in paragraph (d)(3) of this section, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal

Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(iii) The commercial ACL for red grouper is 61,160 lb (27,742 kg), round weight, for 2018; 66,000 lb (29,937 kg), round weight, for 2019; and 71,280 lb (32,332 kg), round weight, for 2020 and subsequent fishing years.

(2) *Recreational sector.* (i) If recreational landings for red grouper, as estimated by the SRD, are projected to reach the recreational ACL, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for red grouper in or from the South Atlantic EEZ are zero.

(ii) The recreational ACL for red grouper is 77,840 lb (35,308 kg), round weight, for 2018; 84,000 lb (38,102 kg), round weight, for 2019; and 90,720 lb (41,150 kg), round weight, for 2020 and subsequent fishing years.

(iii) If recreational landings for red grouper, as estimated by the SRD, exceed the recreational ACL,

specified in paragraph (d)(2)(i) of this section, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL, specified in paragraph (d)(3) of this section, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for red grouper in or from the South Atlantic EEZ are zero.

(3) The combined commercial and recreational ACL for red grouper is 139,000 lb (63,049 kg), round weight, for 2018; 150,000 lb (68,039 kg), round weight, for 2019; and 162,000 lb (73,482 kg), round weight, for 2020 and subsequent fishing years.

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